

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 556**

Introduced by White, 8.

Read first time January 21, 2009

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to the Nebraska Workers' Compensation Act;  
2 to amend section 48-118.01, Revised Statutes Cumulative  
3 Supplement, 2008; to change provisions relating to  
4 third-party claims; and to repeal the original section.  
5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 48-118.01, Revised Statutes Cumulative  
2 Supplement, 2008, is amended to read:

3           48-118.01 Before making a claim or bringing suit  
4 against a third person by the employee or his or her personal  
5 representative or by the employer or his or her workers'  
6 compensation insurer, thirty days' notice shall be given to the  
7 other potential parties, unless such notice is waived in writing,  
8 of the opportunity to join in such claim or action and to be  
9 represented by counsel. If a party entitled to notice cannot be  
10 found, the clerk of the Nebraska Workers' Compensation Court shall  
11 become the agent of such party for giving notice as required  
12 in this section. The notice when given to the clerk of the  
13 compensation court shall include an affidavit setting forth the  
14 facts, including the steps taken to locate such party.

15           After the expiration of thirty days, for failure to  
16 receive notice or other good cause shown, the district court before  
17 which the action is pending shall allow either party to intervene  
18 in such action, and if no action is pending then the district court  
19 in which it could be brought shall allow either party to commence  
20 such action. Each party shall have an equal voice in the claim  
21 and the prosecution of such suit, and any dispute arising shall be  
22 passed upon by the court before which the case is pending and if no  
23 action is pending then by the district court in which such action  
24 could be brought.

25           In any claim or suit against a third person brought

1 by the employee or his or her personal representative or by the  
2 employer or his or her workers' compensation insurer, the issue  
3 of any negligence or contributory negligence of the employer which  
4 may have led to the injury or death of the employee shall not  
5 be asserted or argued by any party or considered in allocating  
6 negligence pursuant to section 25-21,185.10.

7           If the employee or his or her personal representative  
8 or the employer or his or her workers' compensation insurer  
9 join in prosecuting such claim and are represented by counsel,  
10 the reasonable expenses and the attorney's fees shall be, unless  
11 otherwise agreed upon, divided between such attorneys as directed  
12 by the court before which the case is pending and if no action is  
13 pending then by the district court in which such action could be  
14 brought.

15           Sec. 2. Original section 48-118.01, Revised Statutes  
16 Cumulative Supplement, 2008, is repealed.